



CANNON BUILDING  
861 SILVER LAKE BLVD., SUITE 203  
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE  
DEPARTMENT OF STATE

TELEPHONE: (302) 744-4500  
FAX: (302) 739-2711  
WEBSITE: WWW.DPR.DELAWARE.GOV

DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING NOTICE:	<b>BOARD OF HOME INSPECTORS</b>
DATE AND TIME:	<b>Friday, November 16, 2012 at 9:30 a.m.</b>
PLACE:	<b>861 Silver Lake Boulevard, Dover, DE Cannon Building, Second-Floor Conference Room B</b>
APPROVED:	December 5, 2012

**MEMBERS PRESENT**

Donald S. Pyle, Sr., Professional Member, Chair  
Daniel C. Eichelberger, Professional Member  
Tim Harriger, Professional Member (entered at 9:44 a.m.)  
Joyce Edwards, Public Member

**MEMBERS ABSENT**

Dennis Theoharis, Public Member, Vice Chair

**DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT**

Eileen Heeney, Deputy Attorney General  
Daniel Stevenson, Deputy Attorney General (entered at 9:41 a.m.)  
Michele Howard, Administrative Specialist II

**PUBLIC PRESENT**

Dan Warman  
John Kerrigan

**CALL TO ORDER**

Mr. Pyle called the meeting to order at 9:36 a.m.

Mr. Pyle stated that the last meeting got "a little out of hand" with additional comments coming in. He added that as the Board President, he should have done a better job controlling the meeting. Mr. Pyle stated that the Board is charged with looking out for the consumer. He added that he felt the best way to move forward was to plan on 10-15 minute breaks every hour during the meetings to give the public an opportunity to talk with individual Board members. He added that if the public wants to contribute to the Board's discussion, it can do so during the Public Comment section of the meeting. While Mr. Pyle was addressing this issue, John Kerrigan entered the meeting and stated that he wanted to respond to Mr. Pyle. Mr. Pyle stated that during the Public Comment section of the meeting, the Board would allow plenty of time for Mr. Kerrigan to make his comments. He added that Ms. Howard would record all public comments in the minutes and the Board would consider what the public had to say. Mr. Pyle added that since Mr. Kerrigan is Mr. Eichelberger's boss, he does not want Mr. Kerrigan's comments to influence Mr. Eichelberger's opinions or votes. Mr. Kerrigan stated that he was "not happy" with what Mr. Pyle had to say. Mr. Pyle reiterated that Mr. Kerrigan should hold his opinion until the Public Comment section of the meeting.

**REVIEW AND APPROVAL OF MEETING MINUTES**

The Board tabled the review of the October 2, 2012 minutes as they have not been completed.

## **UNFINISHED BUSINESS**

### **REVIEW CURRENT DRAFT OF RULES & REGULATIONS FROM MS. HEENEY**

Ms. Heeney reviewed the latest draft of Rules and Regulations for the Board as follows:

- Ms. Heeney noted that based on the discussions at the Board's previous meeting, she deleted the definition of "garage" from the draft of Rules.
- Ms. Heeney informed the Board that she works with the Real Estate Commission and they have agreed to email all three county real estate boards notifying them that home inspectors must be licensed as of August 2013.
- Ms. Heeney stated that under the statute's "grandfather" provision, applicants must show an affidavit from their employer or tax records.
- Under the "Education" section, Ms. Heeney stated that the Board needs to draft rules regarding the specific course of study that applicants need to qualify for licensure. Ms. Heeney added that the course(s) must be approved by one of the three national home inspector associations. Ms. Heeney questioned, and Mr. Pyle confirmed, that training and education can occur at the same time.
- Under "Lapse Renewal of Licenses", Ms. Heeney revised the draft stated that individual licenses may lapse for not more than one year, changed from six months on the previous draft. Ms. Heeney questioned, and Mr. Pyle confirmed, that an individual's license may be inactive for up to three years. After discussion, Mr. Pyle and Ms. Heeney agreed that if a license has lapsed for more than three years, the licensee must show proof that he/she has completed the CE requirements of the previous licensure period in order to reactivate his/her license.
- Mr. Harriger questioned whether or not the draft included a military provision. Ms. Heeney stated she would "draft that in". Mr. Eichelberger added, "that's a given anyway and will be considered on a case by case basis". Ms. Heeney stated that military are covered under a separate statutory provision that will "come into play later".
- Ms. Heeney stated that the current draft of Rules states that CE courses must be approved by the Delaware Board or one of three national home inspector associations. Mr. Pyle directly questioned, and Mr. Kerrigan responded, that ASHI will generally review and approve continuing education courses, but that initial courses of study required for licensure are not reviewed or approved by ASHI. Mr. Pyle stated that the Board should require a course in Delaware law, rules and regulations pertaining to Home Inspectors. Mr. Kerrigan added that the Board should have its state law course approved by ASHI so that it can be counted as CE for ASHI members.

### **CONTINUE DRAFTING RULES & REGULATIONS**

Ms. Heeney recommended that the Board continue its review of Rules regarding continuing education. Ms. Heeney questioned, and Mr. Pyle confirmed, that a licensee may not take the same CE course more than twice in a licensure period. Ms. Heeney stated that in addition to traditional CE courses, the Board may want to consider whether it will allow "other activities", such as teaching for example, to be counted as acceptable continuing education. Mr. Pyle provided a copy of ASHI's CE form, which Ms. Howard copied and distributed among the Board members. Mr. Pyle noted that the ASHI CE form lists different subjects, specifically technical, business, environmental and volunteer. Mr. Pyle recommended that Ms. Heeney use ASHI's CE form as a guide for developing the Board's Rules and Regulations governing continuing education. Ms. Heeney stated her opinion that granting CE credit to Board members for attending Board meetings is a good idea.

Ms. Heeney questioned if the Board wanted to limit the amount of online courses a licensee could submit for credit. Mr. Eichelberger and Mr. Harriger agreed that online courses should be unlimited. Mr. Pyle stated that the quality of online courses has improved over time. Mr. Pyle noted that the ASHI CE form that he provided for the Board's review was dated 2006-2007, and recommended that Ms. Heeney review ASHI's website to see if a more current version of the form could be downloaded.

Ms. Heeney explained the online renewal and CE attestation process, audits, Rule to Show Cause hearings, and the Board's range of disciplinary sanctions.

Under "Code of Ethics", the Board reviewed samples from other state licensing boards provided by Ms. Heeney. Mr. Eichelberger recommended that Ms. Heeney use the ASHI Code of Ethics, replacing references to ASHI with references to Delaware. Mr. Eichelberger provided the ASHI Standards of Practice, and Ms. Howard made copies and distributed the document for the Board to consider.

Ms. Heeney explained the purpose of listing substantially related crimes in the Board's regulations. Before the December meeting, Ms. Howard will email to the Board the list of substantially related crimes from the Board of Real Estate Appraisers' Rules and Regulations. The Board will review the list and promulgate its own list of substantially related crimes at its December meeting.

#### DISCUSSION REGARDING STATUTORY ISSUES

Mr. Eichelberger stated that the Board's statute needs to be changed. He added that per the legislative memo from Mr. Collins, the deadline to submit proposed statutory amendments is today (11/16/12). Mr. Eichelberger stated that the "grandfather" provision lists a requirement of 5 years practice and 100 home inspections. He added that the statute should never have stated that home inspectors could provide opinions of property value. Mr. Harriger agreed that the statute needs to be changed. Mr. Pyle stated that if the Board proposes statutory changes, it will have to "put everything on hold". Ms. Heeney stated that it's possible that a bill may not get through the legislature before June 2013, and reminded the Board that its current deadline to license home inspectors is August 2013. Mr. Pyle agreed that the "grandfather" provision of five years practice and 100 home inspections is excessive. Ms. Heeney confirmed that once the Board opens its law and submits a bill, the public can come in and try to change the law as well.

Mr. Kerrigan asked if he could be recognized. Mr. Stevenson responded that he should wait for the Board President to acknowledge him. Mr. Pyle stated that the Board would take a break, at which time Mr. Kerrigan could speak with a Board member. Ms. Heeney stated that the Board is required to allow public comment as stated on the agenda, and that public comment was currently slated for the end of the meeting.

Mr. Pyle stated that if the Board proposes a bill, the legislature could decide to make completely different changes to the law. Ms. Heeney stated that the erroneous statement regarding "opinion of value" is under the Trainee section of the law, and she does not believe it is crucial to amend the statute at this time. Ms. Heeney added that any bill proposed by the Board would have to be submitted to DPR Director, James Collins, who would need to find sponsors for the bill. Mr. Harriger questioned, and Ms. Heeney responded, that a member of the legislature would have to sponsor the bill. Mr. Harriger stated that if a member of the public has a disagreement with a Real Estate Appraiser regarding property value, then the "opinion of value" language currently in the Home Inspector's statute could "come into play". Ms. Heeney stated that she believes this was an oversight when cutting and pasting from the Appraisers' law. Ms. Heeney added that the definition of home inspections does not say anything about value. Mr. Eichelberger stated that regardless of the "opinion of value" issue, the Board still needs to address the "grandfather" provision because it would "hurt a lot of people" as currently written.

The Board took a break at 10:23 a.m. and reconvened at 10:32 a.m.

Mr. Pyle stated that the law as currently written will require a 5-year record of being in business and a minimum of 100 home inspections under the "grandfather clause." He added that after the grandfather clause, the Board will require applicants to show proof of 250 home inspections. Mr. Pyle stated his opinion that 100 home inspections is too low, but most inspectors who have been in business for 5 years will likely have performed more than 100 inspections during that time. Mr. Pyle questioned whether home inspectors who don't meet the grandfather provision as currently written will need to start over as a trainee and be supervised by a licensed inspector for 250 home inspections.

Mr. Eichelberger read aloud the grandfather provision and stated his recommendation that a high school diploma or GED, as well as a passing score on a national home inspectors exam be required for applicants applying under the grandfather provision. Mr. Pyle responded that the law is not written with those requirements and the Board must move forward with the law as written.

Mr. Pyle stated that his concern is for the home inspectors who are already in business in Delaware that won't meet the threshold for licensure under the grandfather provision. Mr. Harriger stated his concern is for inspectors who have completed hundreds of inspections, but have not been in business for at least 5 years. Mr. Harriger added that he would like to see the word "and" changed to "or" under the grandfather clause.

Ms. Heeney questioned whether the Board wants to ask the legislature to change a law that has not taken affect yet. She added that if the Board wants to amend its law, it should meet with DPR Director, James Collins. Ms. Howard checked with Mr. Collins' assistant and confirmed that he would not be available to attend the meeting for further discussion. Mr. Eichelberger questioned how the Board could propose to amend its statute. Ms. Heeney responded that she would have to draft a bill on the Board's behalf. Mr. Eichelberger proposed that the grandfather provision of the statute be amended to require a specific number of home inspections versus both a number of home inspections and a number of years in business. Mr. Eichelberger added his opinion that the law as written does not protect the public. Mr. Harriger agreed. Mr. Pyle clarified that the Board is proposing to change the grandfather provision of its statute to remove the 5-year business requirement and to increase the number of completed home inspections from 100 to 250.

Mr. Harriger recommended that if the Board is going to propose one amendment, that it should also propose that the language regarding "opinion of value" be removed under the "Trainee" section of the law. Ms. Heeney stated that the bill will need to be proposed to Director Collins today for his input. Mr. Pyle stated that the bill should also address the omission of insurance requirements. After discussion regarding specific types of insurance and monetary limits, Ms. Howard suggested that the Board may propose that the statute provide language which grants the Board the authority to require that licensees maintain insurance, and that the specific type and monetary limits could be drafted in the Rules and Regulations. Ms. Heeney and the Board agreed.

Mr. Harriger left the meeting at 11:04 a.m. and reentered at 11:05 a.m.

The Board agreed that the bill should also propose that the effective date be extended at least six months from the current date of August 2013.

The Board took a break at 11:09 a.m. to review its statute, and reconvened at 11:19a.m.

Mr. Harriger provided a copy of ASHI's Code of Ethics, which was copied and distributed by Ms. Howard to all Board members. Ms. Heeney advised the Board that the current law goes into effect in August 2013; There being no way to know if the bill will pass or not, the Board needs to continue drafting rules and regulations based on the current statute.

After further discussion, Mr. Pyle made a motion, seconded by Mr. Harriger, to authorize Ms. Heeney to draft a bill proposing the statutory changes as discussed and to present it to DPR Director, James Collins, on the Board's behalf. The motion carried unanimously.

**NEW BUSINESS** - None

**OTHER BUSINESS BEFORE THE BOARD (for discussion only)**

Ms. Howard announced that she has taken a new position at the Division and will be training a new Administrator for the Board as soon as one is hired. The Board congratulated Ms. Howard on her new position.

**PUBLIC COMMENT**

The Board recognized John Kerrigan. Mr. Kerrigan stated that he has "a call into ASHI" regarding whether or not ASHI will approve "new instructor courses" or just continuing education. Regarding the 140 hours of initial education, Mr. Kerrigan stated his opinion that the rules should clarify that those courses do not need ASHI approval. Mr. Eichelberger responded that "wherever it comes from, it comes from", and added that the Board will not specify course titles.

Mr. Kerrigan questioned, and Mr. Pyle confirmed, that Pennsylvania has a minimum insurance requirement of \$500K. Mr. Kerrigan added that his company has been involved in a lawsuit, and if Delaware decides to require a \$1M minimum, many home inspector companies could go out of business. Mr. Kerrigan added that if the Board sets a \$1M insurance minimum, he believes insurance companies will increase their rates because home inspectors will be required by law to buy a policy.

Mr. Kerrigan stated that if a home inspector wants to qualify under the grandfather provision, and only has 240 home inspections as of August 2013, then that inspector will have 90 days to complete the last 10 inspections.

Mr. Kerrigan stated that he believes the RESPA laws limit the amount received from a realtor to \$100, and added that if more than \$100 is received from a realtor, then "the realtor's license could be in trouble." He added that there may be a way for the Board to draft a regulation that an individual inspector cannot pay more than a certain dollar amount as a "thank you" to a realtor or for a referral. Mr. Kerrigan stated that there has been "an ethics battle going on in this country for years" and he does not think "the Board wants to get involved in that." Mr. Pyle stated that section C of the ASHI Code of Ethics "covers that."

Mr. Kerrigan stated that he really appreciated "the organization taking a risk to go back to the legislature with this law because we could have put a lot of people out of business."

The Board recognized Dan Warman, who stated that he agreed that the law needs to be amended. He added that the Board should "do it right the first time." Mr. Warman stated that putting home inspectors out of work would limit the competition and be bad for the public.

Mr. Pyle stated that the proposed statutory changes are to protect the public, not home inspectors. Mr. Harriger stated that he personally feels that in order to protect the public, everybody must be on the same page.

Mr. Kerrigan stated that it seems like what the Delaware Board is moving towards are standards modeled by ASHI's standards, and he's "glad to see that happen."

Mr. Eichelberger responded that the required exam will not be ASHI's exam, and added that ASHI's exam is run by a different organization, a separate entity.

Mr. Pyle asked for clarification, and Ms. Heeney confirmed, that the grandfather provision currently does not state that an applicant must pass a national exam.

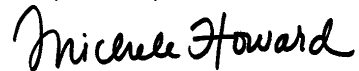
**NEXT MEETING**

The next Board meeting will be at **9:30 a.m. on Wednesday, December 5, 2012 in Conference Room A** located on the second floor of the Cannon Building at 861 Silver Lake Boulevard, Dover, Delaware.

**ADJOURNMENT**

There being no further business to discuss, Mr. Harriger made a motion, seconded by Ms. Edwards, to adjourn the meeting at 11:47 a.m. The motion carried unanimously.

Respectfully Submitted,

A handwritten signature in black ink that reads "Michele Howard". The signature is written in a cursive, flowing style.

Michele Howard  
Administrative Specialist II

*The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Board members and the public in supplementing their personal notes and recall for presentations.*